

Filed 04/16/2008 Page 1 of 2

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 4/16/08

-X

:

$$\vdots$$

•

•

•

-X

In this trademark action, non-party David W. Ehrlich, Esq. (“Ehrlich”), a member of the law firm of Fross Zelnick Lehrman & Zissu, P.C. (“Fross Zelnick”), has moved to quash a deposition and document subpoena served on him by plaintiff Agatha Brown (“Plaintiff”). Upon the Court’s review of all submissions made in connection with the motion, it is hereby ORDERED that the motion (Dkt. 104) is granted in part and denied in part, as follows:

1. No later than April 30, 2008, Ehrlich shall produce to Plaintiff the following documents, to the extent any such documents exist within his possession, custody or control:
 - a. all billing records for any work performed by Ehrlich or Fross Zelnick on behalf of Plaintiff, and
 - b. all documents concerning or relating to any work by Ehrlich or Fross Zelnick on behalf of Plaintiff to negotiate any trademark license with any defendant in this action.
2. No later than May 7, 2008, on a date to be agreed by counsel, Plaintiff may depose Ehrlich with regard to the nature, extent or value of any work performed for Plaintiff by Ehrlich or Fross Zelnick, including any trademark license negotiations conducted by Ehrlich or

Fross Zelnick, on Plaintiff's behalf, with anyone representing any of the defendants in this action. The scope of any such deposition shall not extend beyond these areas.

3. Except as otherwise set forth herein, the motion to quash the subpoena is granted on the ground that the further discovery sought has not been shown by Plaintiff to be relevant to any claim or defense remaining in this action, and on the additional grounds that the discovery would be unduly burdensome to the non-party and would likely call for the disclosure of privileged communications as to which privilege has not been waived.

Dated: New York, New York
April 16, 2008

SO ORDERED



DEBRA FREEMAN
United States Magistrate Judge

Copies to:

Roger L. Zissu, Esq.
John P. Margiotta, Esq.
Fross Zelnick Lehrman & Zissu, P.C.
866 United Nations Plaza
New York, NY 10017

Raymond J. Dowd, Esq.
Dunnington, Bartholow & Miller LLP
477 Madison Avenue
New York, NY 10022

David B. Sunshine, Esq.
Wold, Block, Schorr and Solis-Cohen LLP
250 Park Avenue
New York, NY 10177